FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5528 OF 2005

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders.	Court's or Judge's Orders

Ms. R.D. Suryavanshi h/f P.J. Pawar for petitioner Mr. N.D. Hombalkar for R-1 to 6

Miss V. S. Mhaispurkar for R-8

CORAM: SMT. RANJANA DESAI, J.
8/9/2005

P.C.:-

The petitoner is the plaintiff in R.C.S. No. 20/04. The case of the petitioner is that he is a partner in a partnership firm which conducts Bhairavnath theatre along with defendants 1 to 3 and 5 and 6. According to him the land belonging to the partnership firm is acquired by defendant 8. The plaintiff has a share in the compensation amount and, therefore, this suit is filed only praying for an injunction restraining defendant 8 from paying the compensation only to defendant 1. The

interim injunction application filed by the petitioner came to be rejected. Theappeal filed from the said order was also dismissed and hence this writ petition.

In my opinion, the concurrent prima facie findings recorded by the courts below do not deserve to be disturbed in my writ jurisdiction.

The suit is only for injunction. The plaintiff has not stated clearly what is his share in the compensation. The lower appellate court is right when it states that the monetary claim of the petitioner can always be evaluated and his share could be paid to him. No interference is necessary with the impugned order.

I am informed by the learned counsel for defendant 1 that defendant 8 has already given cheque in the sum of Rs.6,43,753/- to defendant 1. The learned counsel for defendant 8, however, states that defendant 8 has given instructions to the Treasurer

office that the bank may be informed that the said amount may not be paid to defendant 1 on account of the pending litigation.

The petition is rejected.